

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Baxley

Mailed: April 19, 2007

Opposition No. 91123869

Opposition No. 91124432

Opposition No. 91124456

Qwest Communications  
International, Inc.

v.

Quest Media & Supplies, Inc.

Cancellation No. 92031909

Cancellation No. 92032067

Quest Media & Supplies, Inc.

v.

Qwest Communications  
International, Inc.  
(substituted for Qwest  
Communications  
Corporation as party  
defendant in Opposition No.  
92032067)<sup>1</sup>

**Andrew P. Baxley, Interlocutory Attorney:**

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<sup>1</sup> Inasmuch as a document reflecting the assignment of involved Registration No. 1979485 from Qwest Communications Corporation to Qwest Communications International, Inc. ("Qwest") was recorded with the USPTO's Assignment Branch at Reel 1789, Frame 0433 prior to the commencement of Cancellation No. 92032067, Qwest is hereby substituted as party defendant in that proceeding. See TBMP Section 512.01 (2d ed. rev. 2004).

The Board hereby orders the consolidation of the above-referenced proceedings inasmuch as the parties are the same and the proceedings involve common questions of law or fact.<sup>2</sup>

The consolidated cases may be presented on the same record and briefs. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989) and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board file will be maintained in Opposition No. 91123869 as the "parent" case. As a general rule, from this point on, the parties should file only a single copy of any submission herein; but that copy should include all of the proceeding numbers in its caption.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues

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<sup>2</sup> When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. See Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991); TBMP Section 511 (2d ed. rev. 2004).

The Board notes that the parties were told in the notices instituting these proceedings that, if they are parties to other Board proceedings involving related marks, they should notify the Board immediately so that the Board may consider consolidating those proceedings. However, the parties did not so notify. Earlier consolidation of these proceedings would have saved the parties and the Board considerable time, effort and expense.

raised by the respective pleading; a copy of the decision shall be placed in each proceeding file.

In view of the following, the March 9, 2007 order to show cause in Cancellation No. 92031909 and the March 27, 2007 order in Opposition No. 91124432 are vacated.

On March 21 and 22, 2007, Qwest filed consented motions to suspend the above-captioned proceedings pending final determination of a civil action styled *ISP.net LLC v. Qwest Communications Corporation*, Case No. 1:01-CV-0480-SEB-JMS, filed in the United States District Court for the Southern District of Illinois. The Board, in a March 28, 2007 order, denied without prejudice the motion to suspend Opposition No. 91124456. Notwithstanding that Quest Media & Supplies, Inc. ("Quest") has consented to the suspensions sought, the Board, in exercising its inherent authority to control the scheduling of cases on its docket, elects to decide the remaining motions to suspend on the merits.

The Board notes that both the newly consolidated cases and the civil action at issue have been pending since 2001. If Qwest had reason to believe that the civil action has a bearing upon these cases, it should have sought suspension of this case years ago. Further, inasmuch as Qwest did not file copies of the operative complaint and answer in Case No. 1:01-CV-0480-SEB-JMS, it has failed to establish that

Case No. 1:01-CV-0480-SEB-JMS has a bearing upon this proceeding and that suspension of these proceedings is therefore appropriate. See Trademark Rule 2.117(a); TBMP Section 510.02(a) (2d ed. rev. 2004).

In view thereof, Qwest's motions to suspend Opposition Nos. 91123869 and 91124432 and Cancellation Nos. 92031909 and 92032067 are denied without prejudice.

Under the circumstances, the Board deems it appropriate to reset all trial dates herein. Accordingly, testimony and briefing periods are reset as follows.

30-day testimony period for Qwest as  
plaintiff in the oppositions to close: 6/29/07

30-day testimony period for Quest as defendant in the oppositions  
and as plaintiff in the cancellations to close: 8/28/07

30-day testimony period for Qwest as defendant  
In the cancellations and its rebuttal testimony as plaintiff in the  
oppositions to close: 10/27/07

15-day rebuttal testimony period for Quest as plaintiff in the  
cancellations to close: 12/11/07

**Briefs shall be due as follows:**

[See Trademark rule 2.128(a)(2)].

Brief for Qwest as plaintiff in the oppositions shall be due: 2/9/08

Brief for Quest as defendant in the oppositions and as  
plaintiff in the cancellations shall be due: 3/10/08

Brief for Qwest as defendant in the cancellations and its reply  
brief (if any) as plaintiff in the oppositions  
shall be due: 4/9/08

Reply brief (if any) for Quest as plaintiff in the  
cancellations shall be due:

4/24/08

In each instance, a copy of the transcript of  
testimony together with copies of documentary exhibits,  
must be served on the adverse party within thirty days  
after completion of the taking of testimony. Trademark  
Rule 2.125. An oral hearing will be set only upon request  
filed as provided by Trademark Rule 2.129.